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NOTES OF THE WEEK

Confessions and Facts Discovered in Consequence

As is well known, a confession is not admissible in evidence unless it is proved by the prosecution to have been made voluntarily, and it is not considered voluntary if it was made as the result of some inducement or threat on the part of someone in authority in relation to the prosecution.

In a case at Hexham, reported in the *Newcastle Journal*, a woman was accused of stealing money from a gas meter. The evidence was that a gas inspector said the gas would be cut off unless she told him where the money was, and that thereupon she made a statement. The magistrates, upon the point being raised by the defence, held that the statement was made under duress and could not be given in evidence. The charge was dismissed.

Facts discovered in consequence of a statement obtained by inadmissible means may be proved, although the statement itself has to be excluded. There is abundant authority for this in the text-books. Thus, a confession of receiving stolen property with guilty knowledge might be inadmissible if wrongly obtained, but the fact of finding the property in the possession of the accused, in consequence of his statement, would be admissible in evidence.

We are not suggesting that there was anything wrong with the decision in the Hexham case. We are simply calling attention to an interesting point which might arise in some circumstances.

Refusal to Pay Through Court

We are so accustomed to regard payment of sums due under maintenance orders through the court as convenient to the parties that it comes as something of a shock to hear of a man who refused to pay that way, preferring to deal directly with his wife, or go to prison.

A husband summoned before the Oxford magistrates' court for arrears under a maintenance order is reported in the *Manchester Guardian* as declining to pay into court "for some thieving pariah of the legal fraternity to fiddle about with." He said he had been paying money to his wife and also settling debts for her, and seemed surprised when told that he must not pay that way. He even went so far as to say he would rather go to prison than pay through the court, and was told he would have to go for two months.

If the reference to a thieving pariah of the legal fraternity fiddling about with money was intended for the clerk we can be sure the clerk will have no difficulty in bearing up under such a cheap and stupid insinuation. Equally, if it referred to some other solicitor, he would treat it as it deserved. What thousands of husbands and wives, if not the public in general, realize, is that the system of periodical payments through the collecting officer (now the clerk) has proved thoroughly satisfactory. Today there are few disputes about the amount owing, such as there used to be when there were no arrangements for payment through the court, and there is better compliance with orders under a system of notification of arrears. That is no doubt why the law, now contained in s. 52 of the Magistrates' Courts Act, provides that such orders shall be made payable through the court unless the court is satisfied, upon representations made by the wife, that it is desirable that an exception should be made. The accounting involved has made much additional work in the clerk's office but this has been justified by results.

Defendant Wrongly Described in Summons

A curious mistake in a summons came to light at the hearing of a summons alleging a nuisance, which was before Sunderland magistrates' court.

It appears from the report in the *Newcastle Journal* that the summons was addressed to one Stanley Stacey Sinclair Chambers, but a letter received from him pointed out that his name was Stanley Stacey and his address was Sinclair Chambers. The learned clerk was of opinion that the proceedings were valid, but he advised that the summons could not be amended as suggested, in the absence of the defendant.

If we may say so, we think this advice was correct. It was clear that the person who was intended to be summoned had received the summons and that he had not been misled in any way. At the same time, it might have led to some question being raised if an amendment had been

made in the name, in view of the decision in *Oxford Tramway Company* v. *Sankey* (1890) 54 J.P. 564.

At the same court another summons was in the list which was against a defendant who was stated by a member of a firm bearing his name to have died some years ago. The clerk took the view that this case could not go on, there being no defendant, and the summons was withdrawn. Obviously, no order could be made or enforced against a deceased person. Fresh proceedings against someone else, if within any time limit, must be the remedy.

Mind That Child—But Drivers Still Responsible

The *Manchester Guardian* in its issue of September 18, reports that a committee of the Pedestrians' Association has sent to the Minister of Transport a resolution suggesting that propaganda in the campaign for the protection of child life on the roads should be directed more urgently to drivers. It is said that the association's secretary explained that at present in the campaign the main emphasis is on the responsibility of parents and of the children themselves. We regret to say that he continued, according to the report, by saying that the campaign could more appropriately be called not " Mind that Child " but " Mind that Car." We say we regret this because we do not think that it is a useful comment and it seems to indicate an " anti-motorist " attitude that helps no one and tends only to create bad feeling.

Having said this we wish to emphasize that we agree wholeheartedly that, much as we think that many parents are too careless and indifferent in allowing their children to roam the streets under no sort of control, there is always a responsibility on the driver by constant care and watchfulness to seek to avoid injuring anyone, with a special duty to remember that children are liable to make the unexpected and sudden dash into a road which can so easily prove fatal.

The secretary of the association rightly pointed out that however careful parents may be they cannot always accompany children whenever they are away from home and he added: " In the last resort the safety of the children is in the hands of the drivers of this country and this should be the strongest point of the campaign's appeal."

Wilful Damage

From some of the reports we receive it appears that wilful damage to property has become a serious problem. We hear of electric light bulbs being thrown out of railway carriage windows, window straps being cut and cushions being slashed. Street lamp glasses are broken, flowers and trees in parks and recreation grounds are spoiled.

This kind of thing is not usually due to the thoughtlessness of children, more often it is vandalism by young men who seem to take delight in destroying other people's property and making a general nuisance of themselves.

According to the *Liverpool Daily Post*, during the past year 32,000 street lamp glasses and 2,000 electric light bulbs have been maliciously damaged in Liverpool. The cost to the ratepayers has been £4,500. These facts were given in the magistrates' court when three young men were convicted of wilfully damaging a street lamp, and each fined £3. When a policeman, who had seen them throwing clods of earth at the lamp told them they would be reported, one said: " I couldn't care less," and the attitude of the other two was much the same.

Even substantial fines are probably of little consequence to youths who are in receipt of high wages. If this kind of behaviour continues magistrates may have to consider the possibility of other measures, but of course, what everyone who is interested in young people desires is that they should learn to employ their leisure in ways that will not cause injury or annoyance to other people and will give them more genuine satisfaction. Boys who are attracted to clubs and youth organizations early enough are not likely to mis-spend their leisure.

What Children Read

The outcry against horror comics, and the legislation about them, were well justified. A different kind of book or periodical, about which some parents are a little anxious, is the one generally described as " blood and thunder," or, for short, " bloods." These may deal with pirates, robbers and violence, but in most of them virtue triumphs over vice, the villain comes to grief and the hero lives happy ever after. That, at least, was our experience when long ago, we passed through the " bloods " stage.

At the conference of the Incorporated Association of Preparatory Schools a " Brains Trust " agreed unanimously that it would be a mistake to try to prevent children of preparatory school age from indulging in such reading, as it provided an escape and a safety valve. The attempt would in any case be futile, it was said. A distinction was drawn between these books and horror comics, which were condemned.

One speaker said that a person from a happy home was unlikely to be led into delinquency even by horror comics, and we think this is the real heart of the matter. A boy who sees right standards observed in his home and who is given the right sense of values as a guide may still enjoy the thrills of " blood and thunder " stories, but he will not idealize the villain and will rejoice in his downfall.

This kind of reading may prove something that whets the appetite for better adventure stories, and " bloods " of which a boy tires may be the prelude to Henty, Marryat and Stevenson, to mention only three of the older classics for boys.

Disqualified while you drive

Motorists who take their cars abroad within the jurisdiction of the Prefect of the Basses Pyrénées should drive with the greatest care if they wish to avoid finding themselves deprived of their licences on the spot. It is reported in the *Manchester Guardian* of August 23 that " the Prefect has introduced a new terror for wicked motorists." The police in plain clothes are on the look out for them and, when they are caught, members of the Department's commission for driver's licences are waiting for them behind hedges to hear the police charges at once and to take away the offenders' licences on the spot.

We can visualize some enthusiasts pleading for occasional courts on similar lines in this country, but fortunately we think that the technicalities of the Magistrates' Courts Act and rules would make it difficult for them to function satisfactorily. Requests for adjournments to be legally represented and for other reasons would be numerous, and would be difficult to resist so we think that it is unlikely that such an experiment will be tried here.

Apparently the Prefect and the members of his commission were not entirely heartless for although, according to the report, two licences were suspended on the spot, eight others were suspended as from September to allow motorists on holiday with their families to get home. Our somewhat lighthearted treatment of this matter does not indicate in any way that we wish to minimize the seriousness of the accident figures which have led to the adoption of the measures referred to.

The Value of Tests for Drunkenness

At 120 J.P.N. 256 we commented on tests for drunkenness. We now quote from a report in the *Western Mail* of September 13: " Many persons could do tests to determine intoxication better when drunk than when they were sober, a doctor said at Denbighshire Quarter Sessions at Colwyn Bay yesterday."

The report states that the doctor was referring to tests mentioned in the

British Medical Association's book *Recognition of Intoxication.* In this doctor's view tests such as walking a chalked line and bending to pick up a coin were useless unless one knew how the person concerned reacted ordinarily. He preferred to rely on a physical examination and his own observations.

We do not know how many doctors hold views similar to this, but it does seem to make it difficult for justices (and juries) with no medical knowledge to know what reliance to place upon medical evidence based on such tests when they read that a doctor holds the opinion that the tests are valueless. But we fear that it is useless to expect complete agreement amongst doctors on this matter and courts will have to continue to make up their minds as best they can on this often difficult point. Fortunately the matter seldom rests upon the conclusion to be drawn from the tests alone, there is nearly always other relevant evidence.

Failing to Stop After An Accident

The *Western Morning News* of September 18 printed a report of a case in which a motorist who failed to stop after an accident was fined £20, and a further £10 for failing to report the accident at a police station. His licence was endorsed and he had also to pay £3 19*s.* 9*d.* costs. A motor cyclist and his pillion passenger were injured as a result of the accident. The chairman of the court said: "We think it is callous for anyone not to stop after an accident." As with all offences this is one which varies in gravity according to the circumstances. The magistrates in this particular case obviously thought that it was a very bad case of its kind.

It may be appropriate to call attention here to an amendment of s. 22 of the 1930 Act made by the Road Traffic Act, 1956. When this amendment comes into force the liability to report will arise in the case of an accident "whereby personal injury is caused to any person other than the driver of that motor vehicle or damage is caused to any vehicle other than that motor vehicle or a trailer drawn thereby or to any animal other than an animal in or on that motor vehicle or a trailer drawn thereby."

More About Taking and Driving Away

We have remarked before that the offence of taking and driving away a motor vehicle, which causes great inconvenience to car owners and often damage to their cars, is all too prevalent. We are struck by the casual attitude of many offenders to this offence, and this is evident in the reports of two recent cases, one in the *Liverpool Daily Post* of September 14 and the other in *The Western Daily Press* of September 11. In the former case a man who said he couldn't drive and did not know how to was convicted of attempting to take and drive away a car without the owner's consent. His excuse was that having had a few drinks and then had a meal at a café he had missed his last bus and was anxious to get home because his wife was alone with the baby. Apparently this was to him a sufficient reason for contemplating taking someone's car and, if he had done so, committing the other offences which would have been involved (insurance, licence and, possibly, careless driving).

In the other case the defendant took and drove away a tractor without permission. His excuse was that he was fascinated with motors. He is stated to have said: "I cannot drive, but I have always been interested in vehicles." His interest, on this occasion, cost him the comparatively small total of £9, with disqualification for one year.

There are, we fear, all too many similar cases and it is important not only that offenders should be adequately dealt with but also that potential offenders should be discouraged.

Due Care and Attention

What appears to us to be a strange approach to road traffic problems, and one which may account for a number of accidents, is indicated by a remark said to have been made during the hearing of a case reported in *The Western Morning News* of September 12: "You will always have vehicles running into the back of other vehicles while you are trying to get a quart of traffic into a pint pot of road." The inference seems to be that accidents are just inevitable, and one should not make too much fuss about them. This cannot be accepted as a proper view. Whatever opinion one may have about the policy which has been adopted in the past to new road construction and to road improvements the fact remains that we shall have for some considerable time to accept and to make do with our present roads without any large overall alterations. Road users, therefore, must behave accordingly and must exercise the extra care and patience which the conditions call for. It is one of the functions of the courts, mainly the magistrates' courts, so to deal with cases of bad, careless or inconsiderate driving as to discourage drivers from conduct which leads to accidents. We hope that they will not listen with favour to arguments based on the quart and the pint pot theory.

Superannuation Fund Investments

At the time of writing the rates of interest charged by the Public Works Loans Board, on such money as it can be persuaded to part with, are:

Up to 5 years	5¼ *per cent.*
Over 5 years	5½ *per cent.*

These rates compare favourably with the rates required by commercial lenders which, again at the time of writing, are of this order:

2–7 years	6 *per cent.*
10 years	5⅞ *per cent.*
15 years	5¾ *per cent.*
20–25 years	5–9/16ths *per cent.*
30 years	5½ *per cent.*

The Local Government Superannuation Act, 1937, s. 21, gives power to use superannuation fund moneys surplus to immediate requirements for any purpose for which the administering authority possesses a statutory borrowing power, or the administering authority may lend to any other employing authority contributing to the fund for use for any purpose for which that authority have a statutory borrowing power: in either case interest is to be paid to the fund at such rate as may be determined by the administering authority to be equal, as nearly as maybe, to the rate of interest which would be payable on a loan raised on mortgage.

Treasurers and finance committees are therefore faced with the delicate problem of reconciling their interests as borrowers of money on local authority account and as investors of superannuation fund surpluses. The problem is not new but the setting has changed. In the cheap money era, because of the lower P.W.L.B. rates as compared with those current in the market it was common practice for loans to be raised from the Board while investments were made in gilt-edged stocks: this policy was facilitated by the easy acquiescence of the Board in the demands made on it. But at present, while market rates are still above those of the Board, government policy implemented by the Board's refusal to lend in so many cases has driven would be borrowers to look elsewhere for money, and naturally first to funds which they themselves control. From the sample information in our possession we conclude that there is a wide diversity of practice in this matter over the country as a whole: some authorities lend from the superannuation fund for a fixed period of years at the P.W.L.B. rate current when the advance is made, while others fix neither period nor rate of interest, altering the latter from time to time to accord with market fluctuations: where money is advanced for definite periods these periods differ materially

between one authority and another although the interest rate is the same. There may be some authorities who lend at higher than P.W.L.B. rates but we have not heard of them.

In spite of its practical advantages it seems quite clear that the use of superannuation fund moneys for internal borrowing can only result in one of the two sides making a worse bargain than it would do otherwise. This is true not only of the rate of interest but most importantly of the period of the loan. It is generally hoped and believed that the present high level of interest rates will not continue for a long period and if this view is accepted borrowers should make bargains of short duration while lenders should do exactly the opposite.

It may be argued that as deficits on funds must eventually be made good from rate funds the situation is not really serious. Nevertheless each decision has an immediate repercussion on government grants payable: further, administering authorities have a special responsibility as trustees to the employing authorities who contribute to the parent fund but have no say in the method of its investment. It is highly desirable that no administering authority should look upon superannuation fund moneys as a source of relatively cheap capital.

THE ROAD TRAFFIC ACT, 1956

The Road Traffic Act, 1956, was passed on August 2, 1956. It and the Road Traffic Acts, 1930 to 1947, may be cited together as the Road Traffic Acts, 1930 to 1956. The new Act is to come into operation on such day as the Minister of Transport and Civil Aviation may by order appoint and different days may be appointed for different provisions of the Act (s. 55).

Sections 1 to 18 deal with "general provisions relating to road traffic." Sections 19 to 25 are concerned with the "provision of parking places." Sections 26 to 32 contain "provisions as to enforcement." Sections 33 to 38 relate to "traffic regulations" and 39 and 40 to "public service vehicles." The remaining sections 41 to 55 contain "miscellaneous and supplementary provisions." There are nine schedules as follows:

1. Deferred tests of condition of vehicles.
2. Travelling, etc., allowances for attendance at Road Safety Conferences.
3. Procedure for orders designating parking places.
   Part I. Orders made on local authority application.
   Part II. Orders made without local authority application.
   Part III. Provisions as to inquiries.
4. Offences in respect of which disqualification or endorsement may be ordered.
5. Experimental traffic schemes in London.
6. Conditions affecting classification of vehicles
   Part I. Race meetings, public gatherings, etc.
   Part II. Conditions relating to certain journeys for vehicles carrying four passengers or less.
   Part III. Parties of overseas visitors.
   Part IV. Alternative conditions affecting classification.
   Part V. Supplementary.
7. Supplementary provisions in connexion with proceedings for offences under s. 42.
8. Minor and consequential amendments.
9. Enactments repealed.

Having thus set out the general scope of the new Act we propose to deal in more detail with some of its provisions, but our readers will appreciate that we cannot hope in this way to cover all of them. Other articles, for example that at 120 J.P.N. 563, will deal with some matters not covered by this article.

Matters relating to the compulsory testing of vehicles for road worthiness are dealt with in ss. 1, 2 and 3, and in sch. 1. Regulations made by the Minister will govern the procedure. Section 1 (7) provides that if any person with intent to deceive falsely represents himself to be, or to be employed by, an authorized examiner he shall be liable on summary conviction to a fine not exceeding £100 and/or imprisonment not exceeding three months; and s. 1 (8) makes the provisions of s. 112 of the 1930 Act applicable to test certificates as they are to certificates of insurance.

Section 2 (1) provides that if anyone uses, or causes or permits to be used, on a road a motor vehicle to which the section applies (*i.e.*, one first registered under the Vehicles (Excise) Act, 1949, or the Roads Act, 1920, not less than 10 years before the time when it is so used) and as respects which no test certificate has been issued he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £20, or, on a second or subsequent conviction, a fine not exceeding £50 or imprisonment not exceeding three months. The section does not apply to public service vehicles adapted to carry eight or more passengers, to tramcars, to trolley buses or to any other vehicles which may be prescribed. Moreover the Minister may by order limit the application of the section to vehicles registered for the time being with such councils as the Order may specify.

Section 3 allows an authorized examiner to test a motor vehicle on a road to ascertain whether its brakes, silencer, steering gear, tyres, lighting equipment and reflectors comply with the law. For the purpose of the test the examiner may drive the vehicle. Obstructing an authorized examiner carrying out his duties under the Act is an offence punishable on summary conviction with a fine not exceeding £20. The persons who may act as authorized examiners are listed in s. 3 (2). Section 3 (3) allows a driver in most circumstances to elect that the test may be deferred but in certain circumstances a constable may require that the test be carried out forthwith. Schedule 1 deals further with deferred tests.

Section 4 (1) gives permanent effect to s. 1 of the 1934 Act (general speed limit in built-up areas) and in consequence s. 1 (10) of the 1934 Act is repealed. Section 4 (2) of the new Act provides that a length of trunk road or of classified road is not to be deemed, for the purposes of the 1934 Act, to be a road in a built-up area by reason only of a system of street lighting there unless a relevant system of lighting was provided there before s. 4 (2) comes into force, and s. 4 (9) makes certificates by certain authorities evidence for the purposes of proving that a road is or is not a trunk or a classified road or that a system of lighting was or was not provided before s. 4 (2) comes into force.

By subss. (3) and (4) of s. 4 directions may be given so that certain stretches of roads in built-up areas shall be subject to a 40 miles per hour speed limit, but by subs. (5) these subsections are not to come into force until a statutory instrument appointing a day for their coming into operation has been approved by a resolution of each House of Parliament; moreover the Minister is required before such an order is made to report to each House the views of the Departmental Committee

on Road Safety on the results of the experimental introduction of a 40 miles per hour speed limit in the London Traffic Area.

Section 4 (7) provides that on a road with no relevant system of lighting which is deemed to be a road in a built-up area a person shall not be liable to be convicted of a contravention of s. 1 of the 1934 Act unless the fact that it is deemed to be such a road is indicated by the proper signs; and, by s. 4 (8), on a road where there is a relevant system of lighting evidence of the absence of de-restriction signs shall be evidence of that length of road being deemed to be a road in a built-up area.

Section 7 of the new Act makes certain amendments to s. 8 of the 1934 Act, which deals with the sale, etc., of vehicles which do not comply with the legal requirements as to construction. Section 8 is thereby extended to cover defects in brakes, steering gear and tyres due to failure to comply with the Construction and Use Regulations and to lighting equipment.

Section 8 (1) of the 1956 Act creates a new offence of causing death by the reckless or dangerous driving of a motor vehicle on a road. It is an indictable offence punishable with imprisonment not exceeding five years. It is not triable at quarter sessions. Clerks to justices, and others affected, will wish to note that s. 20, Coroners (Amendment) Act, 1926, is to apply to this new offence as it applies to manslaughter. Where a jury is satisfied as to the dangerous or reckless driving but is not satisfied that the driving was the cause of the death they may convict the accused of an offence against s. 11 of the Act of 1930 even if the requirements of s. 21 of that Act about notice of intended prosecution have not been complied with.

Section 9 contains the new and much discussed provisions dealing with those who are in charge of but not actually driving motor vehicles when incapable, through drink or drugs, of having proper control of their vehicles.

The words " or when in charge of " are repealed from s. 15 of the 1930 Act so that that section now deals exclusively with those driving or attempting to drive and the new section with those who are only " in charge." The penalties under the new section are the same as the present ones under s. 15. There is an important proviso that a person shall be deemed not to have been in charge of the vehicle if *he proves*

(1) that at the material time the circumstances were such that there was no likelihood of his driving the vehicle whilst he remained unfit to drive; *and*

(2) that between the time of his becoming unfit to drive and the material time he had not driven the vehicle on a road or other public place.

A first conviction under the new section is not to involve compulsory disqualification, but a second or subsequent one will do so. For this purpose a previous conviction under s. 15 of the 1930 Act is to count as a previous conviction under the new section (*see* s. 9 (5)).

A person committing an offence against s. 9 may be arrested by a police constable without warrant (s. 9 (4)).

Section 11 is of considerable importance because it applies to pedal cyclists the provisions of ss. 11, 12 and 15 of the Act of 1930, omitting, in the last case, the reference to " attempting to drive."

By subs. (2) reduced penalties are provided for cyclists who commit offences against the said sections. For offences against ss. 11 or 15 the maximum penalty for a first conviction is to be a fine of £30. For a second or subsequent conviction it is to be a similar maximum fine, or imprisonment for not more than three months. " Careless " cyclists are to be liable to a maximum fine of £10 on a first conviction and of £20 for a second or subsequent one.

Cyclists are also to comply with s. 20 of the 1930 Act (the requirements to stop and give name and address when there is an allegation of dangerous or careless driving or to stop when there is a requirement by a police constable in uniform). Section 21 (notice of intended prosecution) is also to apply, with the omission of any reference to registered owners, and a court is to have the power given by s. 35 of the 1934 Act to substitute a charge of careless driving for one of reckless or dangerous driving.

Section 12 creates a summary offence, with a maximum penalty of £50, of taking part in or promoting a motor vehicle trial on a footpath or bridleway if the trial has not been authorized by a local authority. Failure to comply with the conditions of an authorized trial is also an offence.

Section 13 deals with pedal cycle road races or speed trials on public highways. These must be duly authorized and must be conducted in accordance with any conditions imposed. Those who promote or take part in unauthorized races or trials are liable on summary conviction to a fine not exceeding £10. It is equally an offence if conditions are not complied with. In this section " public highway " does not include a footpath or bridleway.

The pedestrian is brought under some measure of control by s. 14. If a constable in uniform is regulating vehicular traffic on a road any pedestrian who fails to comply with a direction to stop which the constable gives, either to pedestrians or to pedestrians and other traffic, commits a summary offence carrying a maximum penalty of £10 for a first conviction and of £25 for a second or subsequent one. If an offender against this provision fails, on request, to give his name and address to a constable he commits a summary offence carrying a maximum penalty of £5. The section uses the words " person on foot " and not " pedestrian," and this would appear quite clearly to cover a person who is pushing a bicycle or anything else on wheels.

Dog owners are to be subject to new requirements by virtue of s. 15. Local authorities are to have power to specify a length of road as a " designated road." With exceptions in favour of dogs proved to be kept for driving or tending sheep or cattle in the course of trade or business and of those proved to have been, at the material time in use under proper control for sporting purposes any person who causes or permits a dog to be on a designated road without the dog being held on a lead shall be liable to a fine not exceeding £5.

Section 16 introduces new provisions about the exemption of certain persons from the obligation to pass a driving test, the fact of having held a licence before April 1, 1934, being no longer a qualification for exemption. Section 17's purport is indicated by the side note " amendments as to groups of vehicles covered by driving tests."

Section 18 introduces much needed restrictions (they might well have been more severe) on the granting of innumerable provisional licences to drivers who do not even bother to try to pass a driving test. We do not propose to detail them here because this would mean printing the section verbatim.

Sections 19 and 20 contain the provisions about the much disputed parking places with parking meters to which we have referred from time to time while the Bill was before Parliament. Those of our readers who wish to know what these provisions are will be obliged to read the sections for themselves and we do not think we can make any useful summary of them. Section 21 contains the general provisions necessary for the regulation of parking places and then comes s. 22, the penalty section. There is, under s. 22 (1), a fine not exceeding £5 on a first conviction or £10 on a second or subsequent conviction

of offences of " wrong parking " if we may so describe them, and of failing to pay the appropriate charges. There is provision in s. 22 (2) for treating as the driver, in appropriate cases, the person driving the vehicle when it was left in the parking place. Fraudulently interfering with parking meters or operating or attempting to operate them with other than the appropriate current coin of the realm are to be summary offences carrying liability to a fine not exceeding £50 and/or imprisonment not exceeding three months.

If the offence is one of failing to pay a charge and it is proved that the amount due, or part of it, has not been paid the court *shall* order payment of the sum not paid and such sum shall be recoverable as a penalty.

Section 26 makes important increases in the maximum penalties for various offences as follows:

Section 11 *of the* 1930 *Act.*

For a first conviction the maximum penalty on summary conviction may be £100 and/or four months imprisonment and for a second or subsequent conviction £100 and/or six months.

Section 12 *of the* 1930 *Act.*

First summary conviction will carry a maximum fine of £40 and a second or subsequent conviction £80 and/or three months imprisonment. This result is achieved by an appropriate addition to s. 12 of the 1930 Act made by sch. 8, para. 12 (3) of the 1956 Act, so that s. 113 (2) of the 1930 Act no longer applies.

Section 15 *of the* 1930 *Act.*

For a first summary conviction the penalty may be a fine not exceeding £100 and/or four months imprisonment and for a second or subsequent conviction £100 and/or six months.

On conviction on indictment the imprisonment may be for a term not exceeding two years.

Section 26 also increases the penalties which may be imposed for contravention of orders made under s. 46 (2) of the 1930 Act.

In addition s. 26 amends the provisions of the 1930 Act relating to disqualification. On a second or subsequent conviction for dangerous driving (*see* s. 11 (3), 1930 Act) unless more than three years have elapsed since the last conviction the minimum period of disqualification is to be nine months. In s. 12 (2) of the 1930 Act the provisions limiting the possible period of disqualification on a second conviction for careless driving are repealed.

The general power in s. 6 (1) of the 1930 Act to disqualify and/or endorse on conviction for criminal offences in connexion with the driving of a motor vehicle is taken away and there is substituted a list of offences (*see* sch. 4 of the 1956 Act) for which disqualification or endorsement may be ordered on conviction. Without prejudice to the power to disqualify conferred by s. 6 (1), *supra*, any provision which requires that on conviction of an offence a person shall be or shall be ordered to be disqualified is not to apply to a person convicted of aiding, abetting, counselling or procuring, or inciting to, the commission of the offence. The power given by s. 6 (3) of the 1934 Act to disqualify until a test is passed is to apply also to convictions under s. 15 of the 1930 Act.

Other provisions in the new Act also deal with disqualifications. The power to limit a disqualification to the type of vehicle driven at the time of the relevant offence is taken away by the repeal of the proviso to s. 6 (1) of the 1930 Act.

Section 27 (1) amends the provision in s. 7 (3) of the 1930 Act about applications for the removal of disqualifications by altering the period which must elapse before application can be made; and s. 27 (2) provides that in calculating when a period of disqualification expires or the time after which application for removal may be made any period after the conviction during which the disqualification was suspended or the offender was not disqualified is to be disregarded.

Section 28 gives a right of appeal against a disqualification by conviction (in effect this is an appeal against a finding of no special reasons) with power to the court to suspend the disqualification pending the appeal.

Section 29 makes two important modifications to s. 35 of the 1930 Act. There is no longer to be disqualification by conviction (the power to disqualify remains by the inclusion of s. 35 in sch. 4 to the new Act) and an employee is not to be convicted if he proves:

(*a*) that the vehicle did not belong to him and was not in his possession under a contract of hiring or loan, *and*

(*b*) that he was using it in the course of his employment, *and*

(*c*) that he neither knew nor had reason to believe that there was no policy in force.

The requirements of s. 21 of the 1930 Act (notice of intended prosecution) are extended to apply to offences under ss. 49 and 50 of the 1930 Act (failure to obey traffic directions and leaving vehicles in dangerous positions).

Section 31 gives certain extra powers to the police to require the production of driving licences and creates a summary offence, penalty not exceeding £5, for failure to produce on such a requirement, with an " escape clause " if the licence is produced in person at a specified police station within five days. Section 31 (4) makes persons other than the actual driver of a vehicle liable under s. 4 (5) or s. 40 (1) of the 1930 Act to produce their driving licences, give the name of the owner of the vehicle, or produce their certificates of insurance. It also adds a liability to produce, in appropriate cases, a certificate that a vehicle has been duly tested under the provisions of the new Act.

By s. 32 the provisions of s. 113 (3) of the 1930 Act (obtaining information as to the identity of a person driving a vehicle) are extended to cover offences under other Acts and regulations. Where the offence is one under the new Act relating to parking places the information under s. 113 (3) may be demanded either by a local authority or by a chief officer of police. The provisions of the said s. 113 (3) are to apply also to the riders of pedal cycles.

Section 35 (7) is to be noted as amending in certain respects s. 49 of the 1930 Act, and s. 35 (8) abolishes the power to imprison for a second or subsequent conviction of an offence against the said s. 49 (failure to obey traffic directions).

Section 36 allows experimental schemes of traffic control in the metropolitan area (*see* sch. 5 for the kinds of experiment allowed). Failure to comply with any such regulations involves, on summary conviction, a maximum fine of £20 for a first and of £50 for a second or subsequent offence (s. 36 (4)).

Section 39 redefines the expressions " public service vehicle," " stage carriage," " express carriage " and " contract carriage," but we cannot deal further with these definitions since this article is already too long.

Section 41 makes the hours of darkness the same during the period of summer time as at other times, *i.e.*, the time between half-an-hour after sunset and half-an-hour before sunrise.

Carriers licences are dealt with in ss. 43 and 44.

Section 46 contains certain provisions about pedestrian crossings and substitutes a new penalty clause (s. 18 (8) of the 1934 Act) which increases the possible maximum penalty for a

first offence to £10 and that for a second or subsequent offence to £25.

Section 48, *inter alia*, makes a driving licence valid for three years from the date of its issue and increases the fee payable for it to 15*s*.

Section 50 makes pedestrian controlled grass cutters, as therein defined, no longer motor vehicles for the purposes of the Road Traffic Acts, 1930 to 1956, and they become vehicles propelled by hand for the purpose of the Road Transport Lighting Acts.

Our last reference is to para. 15 of sch. 8 of the new Act which amends s. 22 of the 1930 Act (requirement to stop, etc., after accident) by making the liability attach when the accident is one "whereby personal injury is caused to any person other than the driver of the motor vehicle or damage is caused to any vehicle other than that motor vehicle or a trailer drawn thereby or to any animal other than an animal in or on that motor vehicle or a trailer drawn thereby." This will prevent arguments in future on a point which has been a question of considerable doubt in the past.

Since this article was written the Minister has made an order[S.I. 1956 No. 1491 (C.10)] which brings certain provisons of the 1956 Act into force on October 1 (*see* sch. 1 of the S.I.) and others on November 1, 1956 (*see* sch. 2 of the S.I.). The S.I. is called "The Road Traffic Act, 1956 (Commencement No. 1) Order, 1956."

RESTRICTIVE TRADE PRACTICES ACT, 1956

This Act was passed on August 2, 1956. It is divided into four parts. Parts I, II and IV (except s. 9 (1) and s. 28 which are to come into force on such dates as the Board of Trade may by order appoint) came into force with the passing of the Act and Part III, by s. 27, is to come into force on the expiration of a period of three months beginning with the date of the passing of the Act, *i.e.*, on November 2, 1956.

Our readers are probably aware, from discussion in Parliament as reported in the press, of the general scope of the Act, which concerns matters with which we do not think it is appropriate or necessary to deal here. Our purpose is to call attention to those parts of it with which magistrates' courts may be concerned.

Part I deals with the establishment of a Registrar and of a Restrictive Practices Court, with the registration of agreements to which the Act applies, with supplementary provisions as to registration and with the judicial investigation of registered agreements.

The first of the sections dealing with supplementary provisions as to registration is s. 14, and by this section the Registrar is given power to require certain persons to give him information about matters with which the Act is concerned. This section is reinforced by s. 15 by which the High Court may order the examination of persons on oath. Then comes s. 16 (1) as follows:

"If any person fails without reasonable excuse to comply with a notice duly given to him under s. 14 of this Act he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £100."

Section 16 (2) deals with persons who, in furnishing information, make statements or furnish documents which they know to be false in a material particular, or who recklessly make statements or furnish documents which are false in a material particular or who wilfully alter, suppress or destroy any document which they are required to furnish. An offence under this section renders an offender liable to a fine of £100 and/or three months' imprisonment on summary conviction, or to a fine and/or imprisonment not exceeding two years on conviction on indictment.

Section 16 (3) provides for further penalties in the case of anyone who, having been convicted under s. 16 (1) of a default in complying with a notice, continues the default thereafter. He is to be guilty of a further offence and liable then, on summary conviction, to a fine not exceeding £100 or not exceeding £10 for every day on which the default continues within the three months next following his first conviction, whichever is the greater. A default is to be deemed to continue until the required particulars, documents or information have been furnished.

Section 16 (4) contains a provision, with which courts are now familiar, that where an offence under the section is committed by a body corporate and it is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of any director, manager, secretary or their similar officer of the body corporate, or of any person purporting to act in such a capacity he, as well as the body corporate, shall be guilty of the offence and be liable to be proceeded against and punished accordingly. It is to be noted that the onus of proof remains with the prosecution; it is not left to the officer concerned to prove that he was not responsible.

Section 16 (5) defines "director" in relation to certain bodies corporate.

Section 17 (1) provides that no prosecution for an offence under Part I shall be instituted in England or Wales except by or with the consent of the Director of Public Prosecutions or the Registrar.

Section 17 (2) extends the time limit laid down by s. 104 of the Magistrates' Courts Act, 1952, for the institution of summary proceedings. An information for an offence under Part I may be tried by a magistrates' court if it is laid at any time within three years after the date of the commission of the offence *and* within 12 months after the date on which sufficient evidence comes to the knowledge of the Director, or the Registrar as the case may be, to justify, in his opinion, the constitution of proceedings. For this purpose it is provided by s. 17 (4) that a certificate by the Director, or the Registrar, as to the date on which such evidence came to his knowledge shall be conclusive evidence. Finally there is s. 17 (5) as to venue. An offence under s. 16 may be tried by a court having jurisdiction either in the county or place in which the offence was actually committed or in any county or place in which the alleged offender carries on business.

A point of evidence is dealt with in s. 11 (7) by which a copy of or extract from any document entered or filed in the register, certified under the hand of the Registrar or any assistant registrar or other officer authorized to act on behalf of the Registrar (whose official position it shall not be necessary to prove) shall in all legal proceedings be admissible in evidence as of equal validity with the original.

By s. 19 the Registrar is given power to make regulations for the purposes of various matters including, inter alia, for regulating the procedure to be followed in connexion with the furnishing of particulars, information and documents under ss. 10 and 14 of the Act.

We mention next s. 24, which is in Part II. In s. 24 (1), in s. 24 (2) and in s. 24 (4) it is declared to be unlawful to do certain things, but these subsections cannot give rise to any proceedings in magistrates' courts because s. 24 (6) enacts that no criminal proceedings shall lie against any person on the ground

that he has committed, or aided, abetted, counselled or procurred the commission of, or conspired or attempted or incited others to commit any contravention of s. 24.

Included in the supplemental provisions of Part IV is s. 33 which restricts the disclosure of information obtained under or by virtue of the Act. Section 33 (3) provides that any person who discloses any information in contravention of the section is to be guilty of an offence and to be liable on summary conviction to imprisonment not exceeding three months and/or a fine of £100 and on conviction on indictment to imprisonment not exceeding two years and/or a fine. There are no special provisions relating to the prosecution of offences against this section.

One final point may relate to jurisdiction conferred on a court because the alleged offender carries on business within its jurisdiction. Section 36 (3) provides that for the purposes of the Act a person shall not be deemed to carry on a business within the United Kingdom by reason only of the fact that he is represented for the purposes of that business by an agent within the United Kingdom.

CLEAN AIR ACT, 1956

The first objective of this Act is to prohibit the emission of dark smoke from a chimney of any building. If, on any day, dark smoke is so emitted, the occupier of the building will be guilty of an offence and liable on summary conviction, in the case of dark smoke from a chimney of a private dwelling, to a fine of not exceeding £10, and, from any other chimney, to a fine not exceeding £100. But emissions of smoke from any chimney lasting for not longer than such periods as may be specified by the Minister by regulations may be left out of account. The Act also specifies certain defences which are admissible in any proceedings for an offence. The chairman of the legal and parliamentary committee of the Sanitary Inspectors' Association, in welcoming the provisions of the Act, expressed the hope that anyone accused of emission would be required to bring convincing proof that he had sound reason before his defence was accepted. Considerable structural alteration may be required before the emission of dark smoke can be avoided from a particular chimney and accordingly the Act provides for exemption from the prohibitory provisions for a period not exceeding seven years if the local authority is satisfied that it has not been practicable to alter or equip the building so as to enable it to be used or fully used for the purpose for which it was intended. A certificate issued by the local authority from time to time to this effect will remain in force for one year or for such shorter period as may be specified therein.

The prohibition also covers dark smoke from railway engines. The owner of any railway locomotive must use any practicable means there may be for minimizing the emission of dark smoke and if he fails so to do he will, if dark smoke is emitted therefrom, be guilty of an offence.

The second objective of the Act is to ensure that industrial furnaces installed in future can be operated, as far as practicable, without emitting smoke when burning fuel of a type for which the furnace was designed. Any furnace installed in accordance with plans and specifications submitted to, and approved by the local authority, will be deemed to comply with this provision.

The third objective of the Act is to reduce the emission of grit or dust from furnaces. The occupier of any building in which a furnace is used to burn solid fuel or solid waste, or of any building or land in or on which an oven is used to subject solid fuel to any process involving the application of heat, must use any practicable means there may be for minimizing the emission of grit and dust from any chimney which serves the furnace or oven and if he fails so to do he will be guilty of an offence.

There is also a provision aimed at securing adequate height of chimneys. Whenever plans for the erection or extension of a building, other than a building used or to be used wholly as a residence or residences, a shop or shops or an office or offices, are in accordance with building byelaws deposited with the local authority and the plans show that it is proposed to construct a chimney for carrying smoke, grit, dust or gases from the building, the local authority must reject the plans unless they are satisfied that the height of the chimney will be sufficient to prevent, so far as practicable, the smoke, grit or gases from becoming prejudicial to health or a nuisance having regard to the purpose of the chimney; the position and description of buildings near thereto; the levels of the neighbouring ground; and any other matters requiring consideration.

It was stated at the recent annual B.M.A. Conference that in Oldham mortality from chronic bronchitis is 139 per 10,000 and in Brighton 29 per 10,000. Medical opinion is coming to the view that the cause is atmospheric pollution by smoke. A resolution was passed viewing with grave concern the continued menace to health caused by air pollution; welcoming the Clean Air Act and calling for vigorous implementation by the government and local authorities.

SMOKE CONTROL AREAS

The fourth objective of the Act is to reduce the volume of domestic smoke by the gradual extension of smoke control areas similar to the smokeless zones established previously under a few local Acts. For the first time provision is accordingly made in a general Act enabling any local authority, by order confirmed by the Minister, to declare the whole of the district of the local authority or any part thereof to be a smoke control area. An order made by the local authority (*a*) may make different provisions for different parts of the smoke control area; (*b*) may limit the operation of the order to specified classes of buildings in the area; (*c*) may exempt specified buildings or classes of buildings or specified fireplaces or classes of fireplaces in the area.

One of the difficulties in the establishment of smokeless zones under private legislation has been the necessity for the owner of a dwelling house to make necessary alterations to fireplaces so as to be able to use smokeless fuel but in any such case in future seven-tenths of the expenditure so incurred by the owner will be repaid by the local authority and the local authority may, if they think fit, repay the whole of the expenditure. Where the expenditure is incurred by the occupier of a private dwelling who is not the owner, and the adaptations consist of or include the provision of any cooking or heating appliance which can be readily removed from the dwelling without injury to itself or the fabric of the dwelling, not more than seven-twentieths of that part of the expenditure will be repaid until two years from the coming into operation of the order; and any further repayment will be made only if the appliance has not by then been removed from the dwelling and if made, shall

be made to the person who is the occupier of the dwelling at the end of the two years. Exchequer grants will be available to local authorities. It is thought that nearly half the smoke in the air is from dwelling houses so householders will have to play an important part in having many old-fashioned grates converted to burn smokeless fuel. It is unfortunate that coke is now so costly.

It is a defence to proceedings for an offence of emitting smoke from a chimney of a building within a smoke control area if it is proved that the emission of smoke was not caused by the use of any fuel other than an authorized fuel. When considering the Bill leading to the Act the Association of Municipal Corporations took the view that the validity of the defence should also depend upon the proof of the proper use of the fuel. The Ministry stated that there was no danger of smoke being caused by the combustion of an authorized fuel because no fuel would be authorized which could in any circumstances cause smoke. Oil would not be an authorized fuel and only inherently smokeless fuels would be authorized. The association, thought, however, that it would be a most mistaken policy to authorize only inherently smokeless fuels. Oil, for example, is a fuel which can be rendered smokeless in proper conditions of combustion and it would be wrong in their view to discourage the installation of oil-burning furnaces.

The local authority will also have power to make grants towards adaptations to fireplaces in churches, chapels and buildings used for charitable purposes or are otherwise concerned with the advancement of religion, education or social welfare.

SMOKE NUISANCES

Smoke other than (*a*) smoke emitted from a chimney of a private dwelling; or (*b*) dark smoke emitted from a chimney of a building or from a chimney serving the furnace of a boiler or industrial plant attached to a building will, if a nuisance to the inhabitants of the neighbourhood, be deemed to be a statutory nuisance for the purposes of part III of the Public Health Act, 1936.

Where a local authority are satisfied of the existence of such a statutory nuisance they must serve an abatement notice on the person by whose act, default or sufferance the nuisance arises or continues, or, if that person cannot be found, on the owner or occupier of the premises on which the nuisance arises, requiring him to abate the nuisance and to execute such works and take such steps as may be necessary for the purpose. Where the nuisance arises from any defect of a structural character the notice must be served on the owner. If the local authority are satisfied that such a smoke nuisance has occurred and although it has ceased is likely to recur a magistrates' court may require the execution of any necessary works. Otherwise the powers of the court under the Public Health Act as to the enforcement of an order in relation to a statutory nuisance apply.

If in the opinion of an authorized officer of the local authority an offence is being or has been committed under the Act or a nuisance exists or has existed he must, unless he had reason to believe that notice thereof has already been given by or on behalf of the local authority, notify the occupier of the premises, the person having possession of the boiler or plant, or the owner of the railway locomotive engine in writing.

The Minister is required to establish a Clean Air Council to keep under review the progress made in abating the pollution of the air in England and Wales and for obtaining the advice of persons having special knowledge, experience or responsibility in regard to prevention of pollution of the air.

The various appointed days on which the provisions of the Act will come into operation have not yet been fixed.

MISCELLANEOUS INFORMATION

DISTRESS FOR RATES

By the Distress for Rates Order, 1956 (S.I. No. 1403), the fees, charges and expenses in respect of distress for rates and incidental to levying of distress for rates are prescribed by the Rating and Valuation (Miscellaneous Provisions) Act, 1955.

SUFFOLK PROBATION REPORT

Many people who look back to the days of the police court missionaries and the beginnings of the probation system have had misgivings about the preservation of the old missionary spirit in view of the increasing organization of the system. For our part, we believe the sense of vocation, the desire to serve and usually the religious outlook are still the motives that draw men and women into the probation service.

In his annual report, Mr. Denis J. Hodges, principal probation officer for the county of Suffolk, expresses his opinion that scientific training and the ability to organize are necessary today. Organization should not impose restrictions on the officer but should create the best environment for efficient work so that the mechanics of the task become a matter of routine. On the question of vocation he writes: " During the time I have been a probation officer, I have often heard it said by magistrates, clergy, and the older social workers, that there is a grave danger that the increased organization of the probation service will remove the sense of vocation and spiritual approach to the work. I do not find this danger is rearing its head. The spiritual element—call it by any other name—desire to help mankind, missionary spirit, etc.—will ever remain the driving force behind probation work."

On the subject of statistics, Mr. Hodges points out the impossibility of assessing the volume of work from figures alone. As he says, a single new matrimonial case may involve hours of intensive patient interviewing, often at a very late hour in the evening; and on many occasions " probation failures " who have been sent to prison and recorded as " unsatisfactory " have asked to be put into contact with their probation officers on release, as being the friends whose influence for good has counted more than any other in their lives.

The responsibility attaching to after-care work is emphasized. Today, says the report, the probation service is being asked to undertake supervision of those who have committed very serious crimes —robbery with violence, and even murder, and the officers realize their grave responsibilities in guiding their charges, both to the individuals and to society as a whole.

The difficulties that attend efforts at matrimonial reconciliation are many and varied, but there is encouragement in the fact that of 278 cases where both parties were interviewed, 160 or 57·4 *per cent.* were still living together as man and wife at the end of the year. Many of the parties, if not most, says Mr. Hodges are full of petty intolerance and conscious only of their rights from, and not responsibility towards, the other partner.

Mr. Hodges has the right attitude, as we believe most probation officers have, about legal advice. "Although probation officers have a good general knowledge of the law relating to domestic proceedings, they never assume to set themselves up as legal advisors, or to place a bar between the client and the court. They are careful to bring to the notice of every individual that approach to the officer in no way jeopardizes the right of application for process to the court."

THE COUNTY OF DERBY: CHIEF CONSTABLE'S REPORT FOR 1955

This is an elaborate and detailed report which gives a great deal of information about the various aspects of police work and other activities and matters affecting the force.

The manpower position has worsened slightly during the year, vacancies having increased by 37 to a total of 170 at the end of the year. There were also two vacancies for women constables, but it was expected that these would be filled without difficulty. The hope is expressed that the pay increase awarded in December, 1955, may attract more male applicants of the right type. It has been impossible to allow the extra rest day per fortnight to give full effect to the 44 hour week, but payment in lieu has solved the problem for the time being. In a foreword the chief constable says that this has undoubtedly steadied the resignations from the force, a police officer's pay being now more comparable with that of men employed in industry.

There has been a further increase in the number of accidents causing death or injury. The total for 1954 was 3,093 and that for 1955 was 3,178. As the chief constable says, these figures make depressing reading and he points out that so many of them could have been avoided with a little courtesy or care, "lives and limbs are gambled daily against seconds," and he adds that whereas big alterations to roads cannot be made quickly methods of driving can easily be changed and should be always in accordance with the type of road being used.

In the county as a whole 43·8 *per cent.* of detected crime was proved to have been committed by juveniles. The chief constable expresses a view, which will not be popular in some quarters, that he does not think that modern methods will reduce juvenile crime. He adds "I am old fashioned enough to believe that a juvenile offender who was summarily dealt with on the spot by the police officer who caught him, the teacher who had pride in the good name of his school or the injured person, rarely offended again and was man enough to take his punishment. From my own knowledge and experience I cannot recall any who were so dealt with who suffered afterwards from any repression or inhibition. Those days, however, have gone, and the public are suffering." It is perhaps as well to remind the protagonists of further and fuller inquiries and of ever longer and more involved reports that there is (or was) another side to the picture.

The total of recorded crimes in 1955 was 4,670, with 3,301 (72·9 *per cent.*) detected. The corresponding figures for 1954 were 4,345, 2,930 (70.2 *per cent.*). In his general remarks on the crime figures the chief constable regrets that the general decrease which was seen in 1953 and 1954 has not been maintained in 1955. Burglary and housebreaking decreased from 192 to 174 but shop and office breakings increased from 269 to 316. The taking of common sense precautions against such offences is urged upon the occupiers of premises. Sexual offences were the highest yet recorded and "again gave cause for grave concern." They numbered 549 in 1955 against 394 in 1954 and 462 in 1953. In 501 of the 549 cases the offenders were detected, and 234 (46·7 *per cent.*) of them were committed by persons aged between eight and 17 years. One appalling case of incest was committed by a grandfather aged 76 with his grand-daughter aged 13.

Under the heading of crime the chief constable refers to four cases of manslaughter where the charge arose from deaths due to road accidents. As he expresses it "four ordinary citizens put themselves in peril of being convicted as criminals because they did not realize that a motor vehicle improperly handled is a lethal weapon."

Non-indictable offences in 1955 totalled 11,872 (9,579 prosecutions and 2,293 cautions). The 1954 figures were 12,931 (10,199 prosecutions and 2,732 cautions). In 1955 there were 62 prosecutions for offences against s. 15 of the Road Traffic Act, 1930. The comment in the report is "when the potentialities of this offence are seriously considered no punishment would seem to be too severe."

The report concludes with some information about the sporting and recreational activities of the members of the force—angling, badminton, bowls, cricket, football, golf and so on. We are sorry to see that the county does not run to a police tug of war team as we have pleasant recollections of watching sternly contested pulls between opposing police teams which seemed sometimes as if they would never end. Has there been a reduction in the average weight of policemen which has made this sport less popular?

NORFOLK FINANCES, 1955–56

The county of Norfolk covers 1,303,000 acres and is the fourth largest administrative county in England. The population in mid-1955 was estimated at 377,000, equivalent to 290 per 1,000 acres: only six English counties have a lower density of population.

As Mr. T. Clay, county treasurer, shows in his summary of the county's finances this naturally means a heavy burden of expenditure on roads. In 1955–56 the total expenditure for this purpose was £1¼ million, about a fifth of all county expenditure and equal to £4 per head of population.

But the financial picture is not entirely gloomy. The sparse population is matched by a low rateable value—£1,690,000 at December 1 last—which has enabled the county to qualify for a large exchequer equalization grant of over £1¾ million and as a result only 17½ *per cent.* of total county expenditure fell upon the rates whereas government grants met 72 *per cent.* Incidentally, Mr. Clay shows in his analysis that 66 *per cent.* of the county's rateable value consists of domestic properties with an average rateable value of £9. Whether the government will propose any re-rating of agricultural properties as part of the general review of central-local government financial relations remains to be seen: it is obvious that were such an alteration to be effected it might seriously reduce exchequer subventions to Norfolk. For the present, however, the county ratepayers are not unfortunately situated: the actual rates estimated to be collected per head of population in 1955–56 were £7 17*s.* for all administrative counties in England and Wales whereas the Norfolk figure amounted to £4 18*s.*, which was the lowest but two of these counties.

The cost of the children's service decreased by £1,600 as compared with the previous year, and the net cost, after crediting the 50 *per cent.* government grant, was less than one-third of that for the almost grantless welfare service.

Coast erosion has to be fought at many places in East Anglia, and during the year capital contributions to district councils were made in respect of a number of schemes while loan charges on contributions previously made amounted to £6,600.

Much work has been done in the county to improve the standard of existing sewerage schemes and to instal schemes where none previously existed: during the year capital contributions to districts totalled £87,000 and loan charges on money borrowed to pay capital grants, mainly for sewerage, amounted to £31,000, an increase of 50 *per cent.* over the previous year.

The smallholdings administered by the county council cover 32,000 acres and are worked by 1,580 tenants: average rents per acre are £4 6*s.* 6*d.* in West Norfolk and £3 0*s.* 11*d.* in East Norfolk. The year's transactions produced a small deficiency of £180 which was debited to the smallholdings reserve fund, the total of which together with the special renewals reserve fund amounted at March 31, 1956 to £36,000.

The consolidated balance sheet shows loans outstanding of £5½ million, against capital outlay of close on £8 million, and a revenue surplus of £619,000 with cash in hand of £481,000.

We commend, as we have done before, Mr. Clay's succinct presentation of all the essential financial information in an attractive small booklet.

SOMERSET WEIGHTS AND MEASURES DEPARTMENT

The progress that has been made in the various types of weighing and measuring instruments is brought out in the report of Mr. F. W. Marston, chief inspector for the Somerset county council. He recalls that when the Weights and Measures Regulations were made in 1907, there were practically no self-indicating or semi-self-indicating weighing machines. Electric petrol pumps came much later. Today, as he says, the young inspector faces a formidable array of appliances, and his responsibilities and the knowledge he requires grow year by year.

The rising cost of labour and materials has compelled many traders who would otherwise have continued to use the simpler types of machines to instal more self-indicating and semi-self-indicating appliances with the result that shop assistants and others find them comparatively easy to use after only a short period of training. The report, like many others, points out that a chart showing price and weight is visible to the seller but, in many cases only the weight is visible to the customer and it is suggested that the customer needs more protection against overcharge. Far too many cases come to the notice of inspectors of traders failing to keep weighing machines in a correct state of balance. Proceedings were instituted in four cases. Details of each case are given in the report.

There is still a good deal of trouble about the sale of coal, and there have been some prosecutions. The responsibility of the employer is emphasized in this report. "Employers are faced with difficult labour problems but this is a situation facing other traders. When confronted with this problem, some coal traders are too ready to place the entire blame upon men whose standards of ethics are open to question, regardless of the fact that the law makes the employer or principal vicariously liable for the acts of his employees. He is entitled to escape without penalty if he is able to prove to the court before whom he is charged that the offence was committed by the employee without his consent, connivance or wilful default and that he had used due diligence to enforce the execution of the Act. Experience leads one to believe that having provided scales with which to weigh the coal and arranged an ineffectual weighbridge check of the loaded lorry prior to leaving the coal wharf, the employer considers his immediate responsibilities are at an end."

Although many of the prosecutions mentioned in the report resulted in only small fines, one is noted in which a fine of £100 was imposed. This was the case of a farmer who appeared before the magistrates for a second time within six months, and pleaded guilty to selling milk which contained 18½ *per cent.* of added water. He could not explain how it had become so.

People buy Channel Islands milk expecting a greater amount of cream than in other kinds, but they cannot always be sure of this. In Somerset, during the year ended March 31, 534 samples of Channel Islands milk were taken and of these 44 were found to contain less than four *per cent.* of fat. It has been the policy to refer to the Ministry of Agriculture, Fisheries and Food certain cases of fat deficiencies in Channel Islands milk and in others to give advice.

How labour difficulties may affect the quality of our milk is shown by the following: "In many cases fat deficiencies arise because producers' labour problems make it necessary for the afternoon milking of cows to commence about 3 *p.m.* and that of the morning milking at about 7 *a.m.* This means that a much better fat content is produced

in the interval of eight hours between the morning and afternoon's milking than in the longer interval of 16 hours.

Where facilities exist for the mixing of all the milk produced during the 24 hours from one herd of Channel Islands cows, no deficiency in fat is likely to be found.

Unfortunately, large quantities of this milk are dispatched to retailers for bottling immediately upon completion of each milking with the result that, under the circumstances outlined above, a milk is sold at a higher price than ordinary milk but containing less than four *per cent.* of fat."

Mr. Marston expresses the view that until there is further legislation dealing with weights and measures it will be necessary to rely a good deal on the Merchandize Marks Acts in order to give the public as much protection as possible. Fortunately the definition of "trade description" is wide. As illustrating this kind of protection, an instance is given of a large firm which had advertized in the national press a variety of knitting and rug wools. A lady had ordered by post two *lb.* of the rug wool, after receiving samples from the advertisers. Upon receipt of the wool she had taken the trouble to weigh it and found it to be less than the two *lb.* stated on the invoice. She took the wool to the district office and the inspector confirmed that the wool in fact was four *ozs.* deficient. The explanation offered by the firm was that the discrepancy might be due entirely to loss of moisture. Expert examination and analysis, clearly indicated that although some evaporation, below the recognized moisture content, had taken place, the wool as delivered was still over 11 *per cent.* deficient of the stated weight. The firm was prosecuted, pleaded guilty and was fined £10.

ISLE OF ELY PROBATION REPORT

After-care work usually receives considerable notice in the annual reports of probation officers. This is as it should be, since the work has extended and has also become more intensive.

The report of the probation officers for the combined probation area of the county of the Isle of Ely refers to the report of the working party on supervision and after-care set up by the Prison Commission, and its opinion that "after-care should not be regarded merely as a matter of employment and material aid . . . but should be developed as a special aspect of social 'case-work' concerned with the whole personality of the individual in the context of his family and his environment." As the Isle of Ely report points out, this will mean that after-care cases must be regarded in the same light as probation cases and due consideration must be paid to those cases when assessing the case loads of probation officers. On home leave before release from prison or borstal the report says that the value of those few days of liberty is beyond doubt, and instances of failure to return are comparatively rare.

In the Isle of Ely, pre-trial inquiries for the magistrates courts are not made. The report urges the need for a liberal use of the power to remand under s. 14 of the Magistrates Courts Act, and notes that it is being used as a rule before a probation order is made.

As in other reports, we find the point made that a probation officers' report does not justify the assumption that it will be a plea for leniency. It is said that at quarter sessions it seems to be customary for defending counsel to call the probation officer to submit his report if counsel thinks it will help his client. Since the probation officer's report is to assist the court it would, perhaps, be better, says the report, for him to be called by the court rather than by counsel, even though the report would not encourage the court to exercise leniency in a particular case.

It has been found that a higher proportion of persons subject to a three year order are reconvicted than of those under supervision for a shorter period. This is attributed to the fact that the subjects of the maximum period of supervision are usually the most difficult ones. The high rate of success of two year probation orders is felt to justify the belief that this period is by far the most suitable.

HOSPITAL FRIENDS

The establishment of leagues of hospital friends was greatly helped by the personal interest in the movement shown by the former Minister of Health (Mr. Ian McLeod) and it is clear from his address at the recent annual meeting of the National League that the present Minister (Mr. R. H. Turton) is equally interested. There are now 340 local leagues which are members of the National League and serving 1,400 hospitals. There are also many other similar bodies which have not yet joined the National League. Lord Beveridge, as its president, in addressing the annual meeting said that patients in hospital need human friendship as well as medical treatment and nursing care; it was difficult for them to get that friendship as they used to be able to do partly because of the reduction in the size of families. As he emphasized there are many elderly people who have no children to care for them when they need it. He pointed out that solitariness in sickness and age is a social problem which cannot be solved by the State and the family alone. It needs the voluntary helpers.

The Minister referred to the need for extending the work of the local leagues to mental hospitals and mental deficiency hospitals of which there are still 181 not so served. But he agreed that one difficulty was that many of these hospitals are in rural areas. He thought that the future policy would be to encourage the placing of this kind of hospital in more accessible areas because it was very desirable to bring the patient into association with the community. On the needs of old people the Minister said he thought the community was failing to appreciate its obligations to them. As others have pointed out before, he said there was still much loneliness amongst old people and there were many cases of old people living alone and falling ill unknown to their neighbours. He hoped, therefore, that the leagues of friends would do all they could to encourage the visiting of old people and friendliness to them. This is clearly a matter in which local leagues of friends should co-operate with local people's welfare committees to ensure, in particular, that an elderly person on discharge from hospital, perhaps to live alone, should not suffer through lack of a friendly visitor who can do so much that the home nurse and the domestic help, good as they are, cannot do.

MAGISTERIAL LAW IN PRACTICE

Evening Standard. August 31, 1956.

MAGISTRATE WAS A SHAREHOLDER

Mr. Leslie Marks, the Old Street magistrate, did not hear a case today about a cup of tea because he is a shareholder in the company concerned.

The case was transferred to Thames Court, where a man said to have gone into a Finsbury tea shop and drunk a cup of tea without paying was conditionally discharged for a year.

A magistrate must not have any interest or bias in a matter upon which he adjudicates.

The least pecuniary interest, however unlikely to bias his mind is, subject to any statutory authority to the contrary, enough to disqualify him from adjudicating. (*R.* v. *Cambridge Recorder* (1857) 8 E. & B. 637; 27 L.J.M.C. 160; *R.* v. *Breconshire JJ.* (1873) 37 J.P. 404).

Where a justice is a member or shareholder of a public company who are prosecutors, he is disqualified, and should withdraw from the bench during the hearing (*R.* v. *Hammond and Another* (1863) 27 J.P. 793).

The learned magistrate sitting at Old Street acted with propriety in transferring this case to his colleague sitting at the Thames court. A metropolitan stipendiary magistrate has jurisdiction throughout the whole metropolitan stipendiary court area, in whichever metropolitan court he is sitting (s. 120 of the Magistrates' Courts Act, 1952. *Froud* v. *Froud* (1920) 26 Cox 605).

Evening Standard. September 5, 1956

COURT SAYS WIFE CAN BE MADE TO GIVE EVIDENCE

A young wife whose husband was accused of wounding her told Lambeth court today she was not willing to give evidence.

But it was decided that she could be compelled to do so.

The wife, Mrs. Patricia Clark, 28, mother of four children, of Julian House, Kingswood Estate, West Dulwich, then agreed to give evidence.

Her husband, Ronald Gordon Winston Clark, 31, shot blaster, was further remanded in custody for a week, accused of wounding her with intent to murder.

Section 4 (2) of the Criminal Evidence Act, 1898, provides that "nothing in this Act shall affect a case where the wife or husband of a person charged with an offence may at common law be called as a witness without the consent of that person."

At common law a wife is a competent witness against her husband in a charge involving personal violence by her husband to her. In such a case she is also a compellable witness (*R.* v. *Lapworth* (1931) 95 J.P. 2).

In *R.* v. *Yeo* [1951] 1 All E.R. 864, the prisoner was indicted at Manchester Assizes on a charge of maliciously sending to his wife, knowing the contents thereof, a letter or writing, threatening to murder her, contrary to s. 16 of the Offences against the Person Act, 1861. Gorman, J., ruled that the evidence of the wife was not admissible. The wife could not be called as a witness under s. 4 (1)

of the Criminal Evidence Act, 1898, because s. 16 of the Act of 1861 was not an enactment mentioned in the schedule to the Act of 1898. Nor was the wife a competent witness at common law as in a case where the husband was indicted for personal injury to her, for there was no authority for saying that a threat to murder was a " personal injury " to the wife.

PERSONALIA

APPOINTMENTS

Judge Arthur Cohen, a county court Judge at Barnet, Edmonton, Hertford, St. Albans, and Watford, is to be transferred on October 1 to Marylebone, where Judge Alun Pugh will cease to sit. Judge Cohen was a naval commander before he became legal adviser to Unrra and later deputy chairman of the Foreign Compensation Commission. He will also be additional Judge at Bow. A divorce commissioner, Judge Alun Pugh, who is 62, is a specialist in workmen's compensation and was a member of the committee on county court procedure. He has been Judge at West London and Bow and in Norfolk. Judge Cohen's successor at the above-mentioned courts will be Sir Godfrey Russell Vick, Q.C., recorder of Newcastle since 1939. Sir Godfrey was called to the bar when on leave from the Western Front in 1917, and took silk in 1935. He was elected chairman of the general council of the bar in 1948.

Mr. J. E. Owen-Jones, newly appointed clerk to Caernarvonshire county council (*see* our issue of September 22, last), has been appointed clerk of the peace of the county. Mr. Owen-Jones' new appointments are both in succession to the late Mr. Gwilym T. Jones.

Mr. David Lloyd Hughes has been appointed clerk to Holyhead, Anglesey, urban district council, to succeed Mr. W. Aylwin Jones. Mr. Hughes is 34 years of age and is at present a solicitor to Anglesey county council. He is the brother of Mr. Cledwyn Hughes, M.P. for Anglesey.

Mr. Roy H. Weeks has been appointed clerk to the justices for the petty sessional divisions of Bampton East and Bullingdon in the county of Oxford, succeeding Mr. A. V. Franklin. These divisions cover three courts sitting at Oxford, Witney and Thame. He takes up the appointment on November 1, next. Mr. Weeks is at present chief assistant clerk to the justices for the county borough of Southend-on-Sea and the petty sessional division of Rochford, Essex, and prior to this was at the Exeter city magistrates' court. He is 35 years of age.

RETIREMENTS

Mr. A. E. Needham, the chief constable of Doncaster, is to retire on January 2, 1957, on reaching the age of 65. His resignation has been accepted by Doncaster Watch Committee. Mr. Needham, a native of Doncaster and the son of a police inspector in the borough force, succeeded the late Mr. Tom Enfield as chief constable in November, 1949. He joined the Halifax police force and resigned to join the Army during the First World War. He joined the Doncaster force in 1919.

Mr. George Wagg, superintendent registrar at Biggleswade, Bedfordshire, since 1922, has retired.

OBITUARY

Mr. Jack Tarsh, a member of the bar on the Northern circuit, has died at the age of 52.

Mr. R. F. Jones, for the past four years clerk to Aethwy, Anglesey, rural district council, and one time clerk to Valley, Anglesey, rural district council, has died at the age of 56. His father was formerly assistant magistrates' clerk at Llanerchymedd petty sessional division. Mr. R. F. Jones was articled to Mr. Sam Dew, of Bangor, and eventually became a partner in the firm of Messrs. S. R. Dew and Jones, solicitors, of Bangor and Valley. Mr. Jones became clerk to Valley rural district council some years before the war and clerk to the magistrates in the Southern division of Anglesey. Soon after the outbreak of war he was appointed full-time magistrates' clerk at Wigan, Lancs., but returned to Anglesey as clerk to Aethwy council four years ago. Mr. Jones had been in ill-health for some time. He leaves a widow and three daughters.

Mr. Arthur John Mothersole, former clerk to Connah's Quay, Flintshire, urban district council, has died, aged 86. Mr. Mothersole spent his early life in Flint, where he was clerk with the late Mr. T. W. Hughes, solicitor, who afterwards opened a branch office at Connah's Quay, where Mr. Mothersole lived for fifty years. Mr. Mothersole became clerk to Connah's Quay urban district council and was afterwards with Messrs. Ernest Lloyd and Co., solicitors, of Connah's Quay. He is survived by his wife and four sons.

Mr. Ernest Roberts, clerk to Ogwen, Caern., rural district council for 29 years before his recent retirement, has died at the age of 72.

Mr. Reginald Rowland, assistant chief constable of Cornwall, has died in Redruth Hospital. Mr. Rowland joined the Cornwall constabulary in 1914. He served in France and Egypt with the Military Mounted Police during the 1914–18 war, rejoining the police force in 1919. Mr. Rowland served as a constable and later as a sergeant at Liskeard, Newquay, Camborne, St. Ives, Chy-an-Dour (Penzance), Saltash and Truro. He was promoted to the rank of inspector in 1935 and later went to Camborne as divisional inspector. He was promoted to the rank of superintendent in charge of the Camborne division in 1940 and in 1946 moved to headquarters at Bodmin on his appointment as deputy chief constable. He was again promoted, to assistant chief constable, in March, 1949. Two years ago Mr. Rowland was awarded the Queen's Police Medal for his services to the Cornwall constabulary.

HONORARY FREEDOM

Mr. Alan Hodge, town clerk of the borough of Devizes, Wilts., has been made an honorary freeman of the borough. Mr. Hodge has been town clerk for 30 years and clerk to the borough justices for 22 years.

REVIEWS

After the Verdict. By John Wainwright. Salvationist Publishing and Supplies, Ltd., Judd Street, King's Cross, London, W.C.1. Price: cloth 6s., paper 3s. 6d.

Many people think it impossible for prison to reform anyone, and some go so far as to say that a man always comes out worse than when he went in. That is rather a pessimistic view to take of the results of the work of devoted officials and voluntary workers. At all events, it is not true that every man leaves prison worse than when he went in, as is proved beyond all doubt by Mr. Wainwright's inspiring book.

The author, a Lieutenant-Commissioner in the Salvation Army, was born in the United States at a time when Salvationists were suffering for their religion, but he has lived to see " the Army " honoured and appreciated for its wonderful work in unlikely places and on unpromising material. In this book he tells of his work among prisoners and ex-prisoners in England and Scotland, and although, as he freely admits, there were many failures, there is a moving story of men whose lives were mended and whose whole outlook was changed by contact with the Salvation Army. Men regarded as hopeless criminals, desperate and dangerous, became honest, hard-working and useful, all because they accepted the proffered friendship and ready help of the Salvation Army, and they left prison better men than anyone ever expected them to be.

Mr. Wainwright does not lay claim to all the credit. He found prison officers always anxious to help those who would respond. Tribute is paid to many a governor and official for their interest and desire to co-operate with voluntary helpers in the work of reform. Naturally, however, it is about the Salvation Army that this book is principally concerned, and we realize that we are reading of men and women who believe in conversion, saving grace and renewed hope. These are no stories of fleeting, emotional experiences, but of lives truly transformed, standing the test of time. The Salvation Army counts no man beyond hope, and it never turns its back on those who seek its help. This is an invigorating and cheerful book, a cure for cynicism and pessimism. We hope it will be widely read.

NOTICES

The next court of quarter sessions for the borough of Bridgwater, Somerset, will be held on Friday, October 19, 1956, at the Court House, Northgate, Bridgwater, commencing at 10.30 *a.m.*

The next court of quarter sessions for the borough of Guildford, Surrey, will be held on Saturday, October 20, 1956, at the Guildhall, Guildford, commencing at 11.0 *a.m.*

BOOKS AND PAPERS RECEIVED

The Changing World and its Effect on Adolescent Behaviour, being the Sixteenth Clarke Hall Lecture. By J. F. Wolfenden, C.B.E., M.A. Published by The Clarke Hall Fellowship, Tavistock House South, Tavistock Square, London, W.C.1. Price 2*s.* 6*d.*

I always hoped that Doctor Watson
Would surpass himself in time—
And have Sherlock Holmes arrested
For some quite appalling crime.

J.P.C.

DOG DAYS

Among the many anecdotes with which the volatile Mr. Alfred Jingle entertained the Pickwickian party on the Rochester coach, none is more impressive than that of Pointer. The conduct of that sagacious animal is best described in Mr. Jingle's own inimitable style:

> "Dog of my own once—Pointer—surprising instinct—out shooting one day—entering enclosure—whistled—dog stopped—whistled again—Ponto!—no go—stock still—called him—Ponto, Ponto! —wouldn't move—dog transfixed—staring at a board—looked up—saw inscription—' Gamekeeper has orders to shoot all dogs found in this enclosure '—wouldn't pass it—wonderful dog—valuable dog, that—very."

Canine accomplishments of that high standard are all too rare. But most of the inhabitants of these Islands are dog-lovers, and most dogs are equally devoted to their owners. The mutual relationship, it is true, may be as varied as any of those which spring up among human beings. The robust affection between the mongrel terrier and his master is a very different sort of emotion from the sickly sentimentality lavished by the elderly spinster upon her pampered Pekinese. As for the books about dogs, they are of as many styles as there are breeds among their subject-matter.

Every dog has his day, and recent days have produced a number of news-items relating to canine activities in many spheres. There is the report, from across the Scottish border, of the faithful animal who sturdily resisted the blandishments of a housebreaker at business premises in Coatbridge. The delinquent, with considerable acumen and foresight, had included among the *impedimenta* of his trade a plate of meat, with the intention of placating the watchdog who guarded the premises at night. Had his classical education been up to standard, he might have remembered that the staple offering carried by those who sought safely to pass the portals of Hades was a cake compounded of honey and poppy-seeds—an infallible specific for mollifying Cerberus and silencing his bellowing heads. In this case, as in others, a little learning proved a dangerous thing; the dog rejected the proffered gift with scorn, and set up such a barking that it attracted the attention of the nearby police. At the Glasgow Sheriff Court the foolish man was sentenced to 12 months' imprisonment.

Mention of Hades recalls the pathetic story of Orpheus and Euridice, which inspired the beautiful music of Gluck and many another composer since his day. Orpheus so far succeeded in charming the guardians of the Lower World that they permitted his lost love Euridice to return with him to earth, provided only that he did not look upon her face to face. Once he forgot that condition she was lost to him for ever.

The story recently told to the magistrates at Darlington, Yorkshire, reads like a confused medley of these two ancient legends, on which has been engrafted the later tradition of implacable warfare between dogs and postmen. Those who follow the latter vocation are under this disadvantage; while other people who arouse aggressive instincts in some local house-dog can prudently keep away, the postman is in duty bound to repeat his visits and, moreover, signalize them with that double-knock which is like a challenging flourish of trumpets to canine animosity. The particular dog in question in the Darlington case, a greyhound, had manifested his dislike of the complainant postman on many previous occasions; but, like the Ancient Mariner, he held it with his glittering eye. "I knew it was all right," he said, "so long as I looked it in the face. It bit me only when I turned my back on it." Stories come back to the mind of big-game hunters, on *safari*, staring out lions and leopards until they slink away into the jungle; but this is the first episode of the kind we remember in connexion with any dog.

Two other cases are noteworthy for the uncanny instinct of the principal actors for precision of conduct towards their human associates. At Hailsham, Sussex, the owner of a spaniel was ordered to keep it under proper control. A local tradesman was delivering goods at the house when the spaniel and a poodle ran across the garden towards him. The spaniel bit him in the calf, tearing his trousers and leaving a $\frac{3}{4}$ *in.* cut in the flesh. As he vividly expressed it, "the dog took a lump out of my leg." The Chairman of the Bench, a stickler for accuracy, wanted to know "how big a lump?" The answer "About 20 milligrams"—recalls the mathematical disquisitions on Shylock's bond in the Court at Venice. Whether the victim was a pharmacist is not reported; but nobody else, surely, would measure the quantity of flesh taken from his calf by reference to the metric scale. A kilogram is about 2 *lb.* and a quarter, by our standards, and 20 milligrams (if our arithmetic is correct) works out at about three-quarters of an ounce. An animal that can so nicely calculate the gradations appropriate to his first and successive bites deserves commendation rather than blame.

The last case exhibits a degree of canine intelligence (misdirected as it is) which recalls that of Mr. Jingle's Pointer. The animal recently concerned has the privilege of figuring prominently in a judgment of Sachs, J., in the Divorce Division. "It was a cross" said his Lordship, "between a spaniel and a terrier, and no doubt started its life as well disposed as any mongrel; but it was fussed and spoiled by the wife and her mother."

From the evidence before the court it would not have been surprising if the creature had actually intervened in the suit since, according to the learned Judge, "it played a large part in the matrimonial life of the parties." One of the strongest counts in the husband's petition was the complaint that "he could not go to bed without the dog's permission." Pronouncing a decree *nisi* in favour of the husband, his Lordship found, on the evidence, that "the dog would not allow the petitioner to go up to bed before his wife, so she always went first. I am not clear whether it then remained in the bedroom under the wife's control; but the fact is that, until that moment came, the husband was not allowed into the bedroom." There seems to be little doubt that the wife and the dog had conspired together to bring about, and that the animal well understood the symbolical importance of effecting, what was virtually a divorce *a thoro* if not *a mensa*. A dog like Pointer, that is capable of reading a landowner's notices, is all very well; but such exploits are completely eclipsed by the kind of animal that has taken the trouble to acquaint himself with the law of matrimonial relations prior to 1857. "Wonderful dog—valuable dog, that—very."

A.L.P.

CHEQUE-MATE

Her liking for checks is rather apt to stress
The amount of money which she spends on dress,
And her husband, I've heard it said,
Thinks much the same of her appearing in red.

J.P.C.

PRACTICAL POINTS

All questions for consideration should be addressed to "The Publishers of the Justice of the Peace and Local Government Review, Little London, Chichester, Sussex." The questions of yearly and half-yearly subscribers only are answerable in the Journal. The name and address of the subscriber must accompany each communication. All communications must be typewritten or written on one side of the paper only, and should be in duplicate.

1.—Children and Young Persons—*Neglect—Mother of illegitimate child deserts it—No likelihood of suffering—Children and Young Persons Act*, 1933, *s.* 1.

I was interested to read at 120 J.P.N. 305 your P.P. 2 relating to desertion of a child by its mother. I am, however, a little puzzled by the final sentence of your answer to the query in which you suggest that proceedings might have been taken under s. 51 of the National Assistance Act, 1948 for persistent neglect to maintain the child. It appears to me that proceedings under that section could only be taken if assistance had been granted in pursuance of the National Assistance Act, and that if provision were made for the child by way of reception into care under s. 1 of the Children Act, 1948, as appears from the facts of this case, no question of proceedings under the National Assistance Act could arise.

I should be grateful if you could let me have your further comments in this connexion. TIRMIG.

Answer.

Assuming that no national assistance in any form has been given as we now realize is probably the case, we agree with our learned correspondent that there is no offence under s. 51, *supra*, and we are obliged to him for pointing this out. If it could be shown that the mother must have known that the child was in the care of the local authority under the Children Act, 1948, a prosecution under s. 10 of the Act would be more appropriate.

2.—Criminal Law—*National Assistance Act*, 1948—*Persistent failure to maintain.*

A houseboat in which a man and his wife and five children were living having foundered, the local authority admitted the family to accommodation under part III of the National Assistance Act, 1948. The man left some months ago and has made no effort to provide other accommodation for the family or to contribute towards their maintenance. I should be grateful for your opinion whether proceedings can be brought under s. 51 of the Act, on the ground that, although the admission to part III accommodation was not originally a consequence of the man's neglect to maintain, his subsequent failure to maintain brings him within the section. If there is any doubt as to the application of the section to the circumstances, it would presumably be unwise to apply for a warrant of arrest so as to secure the man's appearance at court. GUNTIR.

Answer.

We think that s. 51 of the Act is wide enough to cover the facts set out. The man's family is still in accommodation provided under part III "in consequence of his refusal or neglect." If the justices are satisfied the offence has been committed, they can issue a warrant on information to bring the man before the court.

3.—Evidence—*Written statement handed to and read by a police constable at time of an inquiry into an accident—Admissibility at the hearing of the charge against the person making it.*

The police are called to the scene of an accident between the cars of D and G. Whilst the police constable takes particulars from G, D goes to his own house opposite the scene and proceeds to write his statement. Having done so, the police constable reads the statement and says "That is not the way we want it" or words to that effect. He thereupon, and without caution, takes a statement from D afresh in question and answer form. The police constable in evidence said the statement made by D was not in chronological order, and that was why he wanted another one. When D's original written statement was put to the police constable in evidence he agreed it was the one D had handed him.

The clerk of the court objected to its being read, saying it should be proved by D himself—in spite of defence submission. The justices said they accepted the clerk's advice. On putting the statement to D later, the clerk then said it was inadmissible and was not evidence.

It was submitted that as the police constable had admitted D had shown it to him and he had read it, it was admissible as D had written it and shown it to the police at time of the accident. JEDIL.

Answer.

In our view the statement, being one made to the police constable at the time (albeit in writing) was admissible in evidence when it was put to and duly identified by the police constable.

4.—Guardianship of Infants Acts—*Application by putative father for custody order.*

The decision in *Galloway* v. *Galloway* is likely to lead to applications for custody by putative fathers until there is an authoritative decision under the Guardianship of Infants Acts, as it certainly indicates that one must examine the position from an angle not generally considered theretofore. My justices had before them such an application in *S.* v. *F.*

It is not improbable that an order for *mandamus* may be applied for in that case. On the other hand there is a suggestion that the issue of jurisdiction can be avoided by making the child a ward of court.

The law was argued at considerable length and the writer feels that in case there is no application for *mandamus*, it would be of use to clerks to justices to know the cases likely to be cited in similar applications—since it is far more likely to result in a considered judgment if the clerk is not faced for the first time with some of the authorities when he gets to court and they are not easily discovered with only a country library. In addition to authorities reference was made to *Halsbury*, 3rd edn. and supplement thereto, and your paper, which it was felt would have known of any further authorities and whose opinion was entitled to respect.

Learned counsel's general argument was that the modern outlook had changed the test from husband and wife to parenthood as was shown by cases cited and *dicta* therein. The justices were referred to the supplement to 3 *Halsbury*, para. 169 and Mr. Frank Powell's decision therein noted, *The Times*, October 30, 1953, granting custody, and the court was informed that *Duguid* v. *M'Brinn* was on a Scottish Act, so did not need to be considered; *Re A., deceased, S.* v. *A.* (1941) 164 L.T. 230 (to which I will return); *B.* v. *B.* [1949] Ch. 108; (1945) 109 J.P.N. 260 (against an order); *M.* v. *M.* [1946] P. 31; *Harrison* v. *Harrison* [1951] 2 All E.R. 346; 115 J.P. 428; *Packer and Packer* [1953] 2 All E.R. 127 (Lord Justice Dennings' judgment); *Galloway* v. *Galloway* [1955] 3 All E.R. 429.

The solicitor for the respondent referred to 3 *Halsbury*, p. 106, para. 165 and p. 109, para. 169, and commented on some of the various cases cited.

The Acts were referred to of course by both parties.

The learned counsel for the applicant pressed the general trend of cases and *B.* v. *B.* and *Re A., S.* v. *A.* in particular and contended that in view of the decision in *Re A., S.* v. *A.*, if part of the Act applied to illegitimate children the whole must so apply. The justices considered also whether *Galloway* v. *Galloway*, and the *dicta* therein, indicated the proper line of approach to the problem of whether the *prima facie* meaning of the words should be widened and, if so, whether in applying those principles one should look at, *inter alia*, the preamble and the schedule to the Act of 1925 as showing the intent thereof.

The argument was advanced that *Re A., S.* v. *A.* having decided that a mother could appoint a guardian of an illegitimate child it followed that a father of one must be able to, too, and thereby by implication the whole Act must apply to both. The question was considered, whether, in spite of the *dicta* of Bennet, J., that even without the schedule to the Act, he would have decided that case in the same way, the justices should consider the implication of the omission from the schedule of both the putative father even after the mother's death or any guardian appointed by him. This it could be considered negatived the suggestion that he had power to appoint a guardian and thus the proposition that the Acts as a whole applied to the putative father of an illegitimate child also.

It is worth noting also that while the Common Law originally gave priority to the father of legitimate children, it was very much the reverse with regard to illegitimate children. This is a position which is not seriously disputed and is the background one must not overlook. How far did the Acts alter this basic position? In these days with a very altered view of the position of illegitimate children and the fact that clearly in all cases the best interest of the child must be the paramount consideration and also the fact that the justices are probably the best of the alternative tribunals to adjudicate on that, the temptation to assume jurisdiction is very great, but the justices having considered with great care all the above matters came to the conclusion that they had no jurisdiction to hear the application. VAMER.

Answer.

For other cases as to the position of the putative father, *see* 3 Digest 381, 382, 198-211.

Another recent case of interest is *Re A* (*an infant*) [1955] 2 All E.R. 202, a decision of the Court of Appeal dismissing an appeal against an order that an infant should remain a ward of court, and committing the infant to the care and control of the natural father's brother and sister-in-law.

The case of *Galloway* v. *Galloway* was an appeal to the House of Lords from an order made under the Matrimonial Causes Act, 1950.

In the absence of a decision of a superior court that the Guardianship of Infants Acts apply to applications for the custody of illegitimate children we are of the opinion that magistrates courts are well advised not to hear such applications.

5.—Highway—*Inn sign reserved from dedication—Alteration of highway—Re-erection on fresh site.*

At the junction of and between county roads, A and B, is a triangular piece of land (hereinafter called " the land ") owned by the W company, the owners of a public house separated from the land on its third side by an unclassified road. In the middle of the land is an inn sign mounted on a pole. By deed made in February, 1951, between the company and the county council the company dedicated the land for public use as part of the highway on the following terms:—

(*a*) The site of the inn sign was excluded from the dedication, and a right of access to such site was reserved to the company;

(*b*) The county council covenanted to keep the land free and unobstructed, and to make it fit for vehicular and/or pedestrian traffic, and for such highway purposes as they might consider desirable.

Following the census of 1951 the urban council is now the highway authority for roads A and B.

The land and the inn sign still remain as they were before the execution of the deed, except that an advance direction sign was erected on the land in 1952 by the county council, under a licence from the company.

The urban council now propose a road improvement scheme for the junction of roads A and B, involving the extension of the carriageway over part of the land, including the site of the inn sign. The company are agreeable to the proposal, provided the inn sign can be sited elsewhere on the land, upon a basis as advantageous as the present site.

Please advise whether and if so in what manner the urban council may meet the wishes of the company, and in particular on the following points:—

1. Have the company power to erect a sign on land dedicated for public use, and if so is any permission needed and from whom ?
2. If the urban council can give such permission, can it be expressed to be unlimited in time? P. VINO.

Answer.

1. No, unless they have reserved a right, on dedication or by virtue of an agreement relating to the variation of an existing right.

2. The council are making a road over the site of the sign, and may do so under s. 146 of the Public Health Act, 1875. The council in pursuance of powers ancillary to their statutory powers may agree that the site shall be exchanged for the new site, and the company will have the right to erect the sign on that new site in perpetuity.

6.—Landlord and Tenant—*Council houses—Increase of rent—Necessary steps.*

Upon your answer to P.P. 3 at p. 188, *ante*, I submit the following.

On the assumption that the tenancy subsisting between a local authority and the tenant of a house provided by a local authority under the Housing Act, 1936, is " contractual " not " statutory " and can, therefore, be varied by the agreement of the parties, I suggest that all that is necessary on the council's deciding to increase the rent is for the tenant to receive a letter signed by the town clerk or his lawful deputy (Housing Act, 1936, s. 164 (2)) notifying him of the increase, and for the tenant to signify his acceptance thereto either by completing and returning a tear-off slip or by paying the increased rent. Do you see any lawful objection to the above procedure, or do you still consider that it is desirable to proceed by way of notice to quit and by having new agreements drawn up, properly executed and stamped, and if so what are your reasons?

B. SENDIW.

Answer.

We said in para. (*a*) of our former answer, that the method indicated in the query was effective when rent at the new figure had been paid, and also that it takes two to make a bargain. Not even a local authority can impose a new rent unilaterally. But the law does not insist on any set form, and it follows that the "tear off slip" method suggested in the present query, though not in the former query, is effective to create a fresh contract, if the tenant signs and sends back the slip. We dislike these informal modes of doing business, because we have found them giving rise to difficulty of proof, especially in cases of death, about what had been agreed, and because we consider that the tenant is entitled by way of a document of title to something better than a letter. We spoke of notice to quit in the former answer, because the query did so, and seemed to suggest that the new rent was not agreed by the tenant. If the tenant is willing to pay it, the new tenancy agreement can be so drawn as to supersede the old from a named date.

7.—Police Property Act, 1897—*Property handed to police before charge actually preferred.*

A sells four " genuine X rugs " to B for £12 each in July, 1948. B later finds they are not genuine and worth only £3 each. He complains to the police who take possession of the rugs, presumably as intended exhibits. A few days later B sees A and as a result A sends B £48 but knowing the police are investigating leaves no trace of his whereabouts.

Two days after B had been refunded £48 the police obtain a warrant for A's arrest on a charge of false pretences and later still B recovers three of the rugs from the police, who retain one (as an intended exhibit), and who are ignorant of the fact that B has been refunded £48.

I am now asked by the police, six years later, to issue process under the Police Property Act, 1897, with regard to the remaining rug still in their possession. A has still not been traced and the warrant for his arrest is still in existence.

Would you please advise on the following.

(*a*) Has the rug " come into the possession of the police " in view of the fact that it was taken from a witness to whom it belonged?

(*b*) Does the issue of a warrant come within " in connexion with any criminal charge " although no further action has been possible?

(*c*) Would it not appear, owing to the fact that A sent £48 to B and gave no indication of his whereabouts, A did not wish the rugs to be returned and in fact they still belong to B under the original contract?

(*d*) Generally does the above Act apply to such a case.

S. ORIENTAL.

Answer.

This is a difficult question upon which we cannot find any authority, but we think the application can be entertained. It is a border-line case.

(*a*) We consider the rug came into possession of the police, but our difficulty is over the words " in connexion with any criminal charge."

(*b*) We think so. Once the charge has been made by laying information for a warrant or a summons, a criminal charge is made against the defendant. What is more doubtful is whether when B went to the police and at that time parted with the rug, he could be said to have made a charge.

(*c*) This may be so, and the justices may so decide.

(*d*) With some hesitation, we think it does.

8.—Public Health Act, 1936—*Caravan in front garden of house—Whether contravention of byelaws, etc.*

A trailer caravan is parked during the summer months in the front garden of a dwelling-house in the borough, and is taken away at various weekends and at holiday times by the owners. The caravan is parked on the front garden, and not on the drive to the house. It stands on its wheels the whole of the time it is in the garden, and is not occupied during such time. No licence is issued under s. 269 of the Public Health Act, 1936, and the corporation are desirous of taking action if at all possible for the removal of the caravan, but before doing so would be glad to have an opinion on the following points:

1. Is the caravan as explained above a " movable dwelling " within the meaning of s. 269 of the Public Health Act, 1936?

2. If the answer to the first point is in the affirmative, would the caravan remain so if it were raised on jacks with or without removal of the wheels?

3. If the answer to the first point is in the negative, could the caravan be considered to be a building within the meaning of the building byelaws, thereby contravening byelaw 73 (copy enclosed), which provides for space in front of buildings? ARAVA.

Answer.

1. Yes, in our opinion.

2. We do not deny that a movable dwelling can lose its character by being affixed to the soil. Indeed it may even while mobile be a building within the meaning of some enactments: *cp.* P.P. 5 at p. 353, *ante*. But the process of jacking up a genuinely movable living van, even if the wheels are removed, does not deprive it of its character as a movable dwelling within s. 269, which is not confined to wheeled dwellings.

3. This question does not (strictly) arise. *See* also byelaw 7, which even if the van were to be regarded as a building would put it outside byelaw 73. If it really lost its character under s. 269, it might be caught by byelaw 77.

9.—Sunday Entertainments—*Power to grant licence in rural area where part IV of the Public Health Acts Amendment Act, 1890, not adopted.*

In premises owned by my council, there is a large hall which is let to organizations for dances, concerts and the like. An application has recently been received from an organization to hold what is

termed a " variety concert " in the hall on a Sunday, to which it is proposed to charge the public for admission.

Part IV of the Public Health Acts Amendment Act, 1890, is not in force in this district, but the hall is licensed by the justices for the purpose of stage plays with a condition that the hall shall be closed every Sunday.

Will you kindly advise on the following points:

(i) If my council lets the hall for the above purpose, will they, as owners of the hall, be liable to a fine " as the keepers of the room or place " under s. 1 of the Sunday Observance Act, 1780, or under any other enactment:

(*a*) if the " variety concert " consists of music and singing only, or

(*b*) if it also includes sketches and monologues.

(ii) If the answer to (i) above is " yes," would the position be altered if the council stipulated when letting the hall that no charge must be made for admission to the entertainment?

(iii) Would the taking of a collection by the promoters of the concert constitute charging for admission? NAHER.

Answer.

We answered a question similar to this at 113 J.P.N. 436, and later, after giving further consideration to the point then before us, we changed our opinion in a " Note of the Week " at 113 J.P.N. 573.

Our present opinion is that there is no power in justices to grant a licence for a musical entertainment on Sunday in a district where part IV of the Public Health Acts Amendment Act, 1890, has not been adopted; and, outside the provisions of the Sunday Entertainments Act, 1932, there is a liability to penalties under the Sunday Observance Acts, 1625 to 1780.

In any event a so-called " variety concert " would very likely fall outside the definition of " musical entertainment " contained in s. 5 of the Sunday Entertainments Act, 1932, as this definition is explained in *Barnes* v. *Jarvis* [1953] 1 All E.R. 1061; 117 J.P. 254.

If no charge is made for admission it seems that the entertainment may be held; and this may be so even if a collection is taken. But in the present state of the law, we feel bound to express a doubt if the collection is designed to meet the cost of providing the entertainment. *Williams* v. *Wright* (1897) 13 T.L.R. 551, is sometimes cited as authority on the point that an entertainment may lawfully be held on Sunday where no charge is made for admission; but, in our opinion, it is slender authority.

10.—Young Person—*Remand whilst awaiting vacancy in probation hostel.*

Would you kindly give me your valued opinion upon a case which came recently before my juvenile court, the facts of which are these:

A boy aged 15 years, charged with indecently assaulting a seven year old girl, was found guilty. For various reasons, derived from the probation officer's report and from what the boy's father told the court, the justices decided that the boy must be removed from where he was then living and given proper accommodation and supervision, neither of which the father appeared able to provide. In the opinion of the justices, a probation order for three years with a condition of residence in a probation hostel for one year would meet the case, but the probation officer said that time would be required for inquiries to be made as to a vacancy in a probation hostel. The case was therefore adjourned for seven days for this to be done, and, because of the home circumstances, the boy was remanded for this period in a remand home.

At the resumed hearing, the probation officer's inquiries having been completed, the court was informed that the earliest date on which the boy could be received into a probation hostel was some 10 days later. The question posed by this situation was "what is to become of the boy during the next 10 days?" It was essential to remove him from where he had been living with his father and find suitable accommodation for him elsewhere until the probation hostel could receive him.

The court considered two alternatives: first, remand to a remand home for the period of 10 days; and secondly, to make a probation order with the residential condition phrased so as to require the boy to reside at the remand home for the period of 10 days and thereafter at the probation hostel, the total period covered by the condition to be one year.

My advice to the court was that there was no lawful authority for a remand in these circumstances. A finding of guilt had been announced and recorded, no further inquiries had to be made, and no report on the boy's physical or mental condition was required, to enable the court to determine how best to deal with him. The court had already made up its mind about that, and must make the probation order now.

As to the second course, though I could find no specific authority for saying so, I advised that a residential condition framed as suggested would be valid. It was understood that the remand home would take the boy until he could be admitted to the probation hostel, and a probation order was made accordingly, with the boy's consent.

Do you agree with the advice I gave to the court? I can find no expression prohibition justifying my opinion on the question of remand, but, on the other hand, the enactments giving the power to remand do not, in my view, authorize it in such circumstances as these. The enactments to which I have referred are ss. 14 and 26 of the Magistrates' Courts Act, 1952, but I think that s. 69 of the Children and Young Persons Act, 1933, might not be without relevance. That section specifically empowers the court to remand in custody pending the coming into force of an approved school order which has been postponed under the same section. I can find no power to postpone the operation of a probation order or of any of its conditions, much less a power to remand pending its coming into force. If the legislature had intended to confer such power, a provision similar to that contained in s. 69 could have been applied to probation orders. RALFE.

Answer.

Of the alternatives we much prefer remanding until the boy can go to the probation hostel. The court has a duty under s. 44 of the Children and Young Persons Act, 1933, to remove him from undesirable surroundings, and it may well be that in the absence of other accommodation he can properly be detained in a remand home. It might be argued that until it is possible for the boy to go to the probation hostel the court is not in a position to determine the most suitable method of dealing with him.

Neither s. 78 of that Act, nor the Remand Home Rules, 1939, make any provision for voluntary residents in a remand home and there would appear to be no authority for the boy to be there except in accordance with the tenour of an order committing him to custody. Section 78 (4) of the Act and many of the provisions of the Rules (particularly as to discipline and absconding) are quite inappropriate, and it would be difficult for the superintendent to make special arrangements for one inmate. It would, of course, be necessary for the court to give notice forthwith of the terms of the probation order to the Secretary of State, by reason of s. 3 (7) of the Criminal Justice Act, 1948.

Section 69 of the Children and Young Persons Act, 1933, provides for the making of an order committing to custody pending the coming into effect of an approved school order. There is no such provision with respect to probation orders.